

Amendment in response to  
December 8, 2006 final Office action

MAR 07 2007

Atty Dkt No.: 2001P18375US  
Serial No.: 10/042,616

**REMARKS**

Claims 1 – 31 remain in the application and stand finally rejected. Claims 1, 3, 9, 10, 14, 18, 19 and 27 are amended by this proposed amendment. No new matter is added. Although this Amendment is being timely filed, the Commissioner is hereby authorized to charge any fees that may be required for this paper or credit any overpayment to Deposit Account No. 19-2179.

In concluding the “Response to (applicant’s) Arguments,” the final Office action asserts that “Applicant further notes specific differences between the instant application and Brothers, however, no clear differences in the claim language and the sections of the reference cited are pointed out and as such are considered generally allegations of patentability.” By this proposed amendment, claims 1, 10, 19 and 27 are amended to better recite the present invention and, further, to better differentiate the interactive collaborative review conducted independently by reviewers from the formal review, e.g., in a meeting, which is neither taught nor suggested by any reference of record. Similarly, claims 3, 9, 14 and 18 are amended for clarity and to better recite the invention in line with amended claims 1 and 10 from which claims 3, 9, 14 and 18 depend. The amendment to claims 1, 3, 9, 10, 14, 18, 19 and 27 is supported by Figures 1 – 3 and by corresponding description in the specification. No new matter is added.

Furthermore, regarding the assertion that “Applicant further notes specific differences between the instant application and Brothers, however, no clear differences in the claim language” the Examiner’s responsibility does not stop there. Instead, as the applicant has previously noted, MPEP §706 “Rejection of Claims,” subsection III, “PATENTABLE SUBJECT MATTER DISCLOSED BUT NOT CLAIMED” provides in pertinent part that

If the examiner is satisfied after the search has been completed that patentable subject matter has been disclosed and the record indicates that the applicant intends to claim such subject matter, he or she **may note** in the Office action that **certain aspects or features** of the patentable invention have not been claimed and that if properly claimed such claims **may be given favorable consideration**.

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(emphasis added). Since the “Applicant further [noted] specific differences between the instant application and Brothers, ... [it was incumbent upon the examiner to suggest] clear differences in the claim language” for favorable consideration. *Id.* No such suggestion was made.

Claims 1 – 16 and 18 – 30 are finally rejected under 35 U.S.C. §102(b) over “ICICLE: Groupware for Code Inspection” by Brothers et al. Claims 17 and 31 are finally rejected under 35 U.S.C. §103(a) over Brothers et al. in view of U.S. Patent No. 6,199,193 to Oyagi et al. The final rejection is respectfully traversed.

“The Patent and Trademark Office (‘PTO’) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction ‘in light of the specification as it would be interpreted by one of ordinary skill in the art.’ *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004).” MPEP §2111 (emphasis added). Thus, in attempting to read the claims onto Brothers et al., the claim recitations are not just given “their broadest reasonable” meaning, but “their broadest reasonable construction ‘in light of the specification as it would be interpreted by one of ordinary skill in the art.’” *Id.* (emphasis added).

The present application provides in pertinent part that, an author or a moderator creates a static packet of the code for review and distributes the packet to all reviewers. After a suitable period of time, the author or moderator holds the packet review meeting wherein one person, e.g., the author or developer, reads the code aloud and reviewers are allowed to comment and identify errors or problems with the code. Comments are recorded and the author may take whatever action he or she feels is necessary such as, for example, correcting errors or rewriting portions of code. These **code inspection or review meetings** are integral parts of software development processes. page 1, lines 22 – 29 (emphasis added). Furthermore, “after the collaborative interactive review step 104, a **more traditional formal review** meeting is held in step 106. As noted above, this **formal review** meeting 106 has much fewer issues to resolve and so, typically, is much more abbreviated from what would normally have taken place ...” page 7, lines 4 – 7 (emphasis

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added). Finally, “the **actual code inspection meeting of step 106** need only to focus on comments already provided as discussion points.” *Id.*, lines 15 – 16 (emphasis added).

So, “in light of the specification” a “code inspection meeting of step 106” is a “formal review meeting 106,” though not necessarily vice versa. *Id.* Furthermore, by virtue of conducting “the collaborative interactive review step 104,” the “formal review meeting 106 has much fewer issues to resolve and so, typically, is much more abbreviated...” *Id.*

As previously noted, Brothers et al. specifically provides that “in this paper (Brothers et al.) we are primarily concerned with the conduct of the **code inspection meeting**, as the comment preparation phase does not employ groupware.” Page 171 (emphasis added). So, “giving claims their broadest reasonable construction ‘in light of the specification’” Brothers et al. describes a “formal review meeting 106,” and nothing else.

In asserting that Brothers et al. teaches the present invention, the final Office action refers to pages 173 and 174 of Brothers et al. for rejecting claims 1, 10, 19 and 27. Specifically responding to the applicant’s prior remarks, the final Office action asserts that “that Brothers discloses the ability to separate an independent reviewers window from the Reader, allowing that reviewer to review documents separately as noted on page 173. As such, the Examiner interprets this to meet the required limitation of allowing documents to be independently reviewable by reviewers.”

However, the caption of Brothers et al. page 173 upon which this assertion is based, very clearly discusses what is understood “in light of the specification” to be a formal review. So for example, Brothers et al. recites that “the **ICICLE code inspection meeting** is currently intended to occur in one room with all of the inspectors facing one another close enough together for easy conversation..., just as in ordinary code inspections.” Page 173 (emphasis added) *and see*, Brothers et al. pages 173 – 175. The Brothers et al. ICICLE code inspection meeting is moderated by a Reader. *Id.* “As the Reader scrolls from page to page or views different files, all the inspectors’ code windows move with that of the Reader. Naturally, inspectors may wish

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to view other parts of the module than the one currently being described by the Reader; if they split their code windows in two, other inspectors are able to scroll the second window freely, not guided by the Reader.” *Id* (emphasis added). Very clearly, this is all occurring within the Brothers et al. ICICLE code inspection meeting, i.e., in a formal review. Furthermore, allowing participants to a code inspection meeting to freely scroll and view different portions of the same code module currently being reviewed in the meeting (much like shuffling handout pages) is not the same (at least “in light of the specification”) as “making prepared documents available for interactive collaborative review” prior to the formal review, where “prepared said documents [are] independently reviewable in said interactive collaborative review” as recited in claim 1, for example.

The final Office action further responds to the applicants remarks asserting “that on page 174 Brothers discloses collecting a proposed comment, sending it to the other reviewers via a popup window, upon which the comment can then be discussed between the reviewers. The Examiner interprets this ability to meet the required limitation of collecting comments provided by the reviewers, distributing them to the other reviews, and holding a formal review of the comment.” However, making and distributing comments in a formal review is not the same (at least “in light of the specification”) as performing an interactive collaborative review and providing the results of that interactive collaborative review, the comments, for a subsequent formal review, as recited in claims 1 – 31, as filed, as finally rejected or as amended. Or, as previously noted, so that the “actual code inspection meeting of step 106 need only focus on comments already provided as discussion points. This greatly reduces the actual meeting time for the inspection meeting because most of the reviewers have already reviewed the code and so, most of the code does not require additional consideration.” Page 7, lines 15 – 19.

So, while a Brothers et al. code inspection meeting system (whether all participants were cloistered in one room facing each other or ISDNed together in a videoconference code meeting) could be considered means for/program product means for or, steps of, conducting “formal review” as recited in claims 1, 10, 19 and 27, the Brothers et al. code inspection meeting system

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falls short of the present invention. Teaching this one element, the Brothers et al. code inspection meeting, falls far short of teaching: a review facility with means for conducting an interactive collaborative review independently by reviewers and means for following with a formal review as recited by claim 1; a method of reviewing documents as recited in claim 10; or, a program product for doing either as recited in claims 19 and 27. Therefore, the Brothers et al. fails to teach the present invention and the Brothers et al. code inspection meeting system does not anticipate the present invention as recited in claims 1, 10, 19 and 27, as finally rejected or as amended.

Furthermore, since dependent claims include all of the differences with the prior art as the claims from which they depend, claims 2 – 9, 11 – 16, 18, 20 – 26 and 28 – 30, which depend from amended claims 1, 10, 19 and 27, respectively, are patentable over Brothers et al. Entry of the amendment, reconsideration and withdrawal of the final rejection of claims 1 – 16 and 18 – 30 under 35 U.S.C. §102(b) is respectfully requested.

Regarding the final rejection of claims 17 and 31 under 35 U.S.C. §103(a), it is asserted that “while Brothers discloses a desire for implementing an ISDN based ‘Tele’-ICICLE, Brothers does not explicitly disclose the documents being stored in a central repository and selecting said documents comprises connecting over the Internet to said central repository and accessing said documents.” So, Oyagi et al. is relied upon to teach a “software review system the use of a central repository and the selection of information over the Internet as claimed” in claims 17 and 31. Thus, it is asserted that it would have been obvious “to modify the review system of Brothers with the Internet-based review capability of Oyagi, as this would allow **code inspection meetings** to take place over distances, as suggested by Brothers on page 173.” (emphasis added).

Again, with reference to the rejection of claims 10 and 27 from which claims 17 and 31 depend, code inspection meetings are only the last step of the present invention as recited by claims 17 and 31. So, regardless of whether one would be inclined “to modify the review system of Brothers with the Internet-based review capability of Oyagi,” the result is still not the present

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invention as recited in claims 10 and 27, as filed or as amended, much less as recited in claims 17 and 31. Therefore, the present invention, as recited in claims 17 and 31, is not obvious over the combination of Brothers et al. with Oyagi et al. Reconsideration and withdrawal of the final rejection of claims 17 and 31 under 35 U.S.C. §103(a) over Brothers et al. in view of Oyagi et al. is respectfully requested.

The applicant thanks the Examiner for efforts, both past and present, in examining the application. Believing the application to be in condition for allowance, both for the amendment to the claims and for the reasons set forth above, the applicant respectfully requests that the Examiner enter the amendment, reconsider and withdraw the final rejection of claims 1 – 31 under 35 U.S.C. §§102(b) and 103(a) and allow the application to issue.

Should the Examiner believe anything further may be required, the Examiner is requested to contact the undersigned attorney by telephone at 408-492-5336 for a telephonic interview to discuss any other changes.


Respectfully submitted,

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(Date)

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